

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kotzin et al. )  
)  
For: METHOD AND APPARATUS FOR )  
CONTENT MANAGEMENT AND CONTROL )  
)  
)  
Serial No.: 10/814,485 )  
)  
Filed: 31 March 2008 )  
)  
Examiner: Ma, Calvin. )  
)  
Art Unit: 2629 )

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attention: Board of Patent Appeals and Interferences

APPELLANTS' BRIEF

This brief is in furtherance of the NOTICE OF APPEAL, mailed on 25 March 2008.

Any fees required under § 1.17, and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 41.37(c)):

- I REAL PARTY IN INTEREST
- II RELATED APPEALS AND INTERFERENCES
- III STATUS OF CLAIMS

IV	STATUS OF AMENDMENTS
V	SUMMARY OF CLAIMED SUBJECT MATTER
VI	GROUND OF REJECTION TO BE REVIEWED ON APPEAL
VII	ARGUMENT
	A. Rejections under 35 U.S.C. 102 and 35 U.S.C. 103
VIII	CLAIMS APPENDIX
IX	EVIDENCE APPENDIX (not applicable)
X	RELATED PROCEEDINGS APPENDIX (not applicable)

### **I. REAL PARTY IN INTEREST**

The real party in interest in this appeal is Motorola, Inc., a Delaware corporation.

### **II. RELATED APPEALS AND INTERFERENCES**

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board’s decision in this appeal, there are no such appeals or interferences.

### **III. STATUS OF CLAIMS**

#### **A. Status of all claims in the proceeding**

1. Claims rejected: 1-21
2. Claims allowed: None
3. Claims withdrawn from consideration but not canceled: none
4. Claims objected to: None
5. Claims canceled: None

#### **B. Identification of claims being appealed**

The claims on appeal are: 1-21

#### **IV. STATUS OF ANY AMENDMENTS AFTER FINAL**

One after final amendment was filed after the most recent Office Action made final, dated 02 November 2007.

#### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The aspect of the invention (claims 1, 10, 11 and 12), which is being appealed, pertains to a method of representing content management in an electronic device having a context sensor. The method includes receiving signals from a context sensor (224) (Page. 6 lines 21-22; page 10, lines 30-31;). Determining a contextual characteristic (page 6, lines 23-25; page 7, lines 27-28) of the device based on the received context sensor signals. Associating the determined contextual characteristic with a data management function (page 4, lines 1-2 and 21-22) of the device. Determining a virtual physical representation to be output in response to the execution of the data management function (page 3, lines 16-23 and 28-30; Page 3, lines 19 – 27; page 4, lines 9 – 28; page 5, lines 5-14).

#### **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Whether claims 1 - 16 and 20 -21 have been improperly rejected under 35 U.S.C. 102(b) as being unpatentable over Nykanen et al. (US Patent No. 6,714,778).
2. Whether claims 17 - 19 have been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Nykanen et al. (US Patent No. 6,714,778) in view of Steele et al. (US Patent No. 5,169,342).

## VII. ARGUMENT

### A. Rejections under 35 U.S.C. §102 and 35 U.S.C. §103

1. Whether claims 1 - 16 and 20 -21 have been improperly rejected under 35 U.S.C. 102(b) as being unpatentable over Nykanen et al. (US Patent No. 6,714,778).

#### Claims 1, 10, 11 and 12

The Examiner has rejected claims 1 - 16 and 20 -21 under 35 U.S.C. 102(b) as being unpatentable over Nykanen et al. (US Patent No. 6,714,778). However contrary to the Examiner's assertions, the cited reference being relied upon by the Examiner fails to make known each and every feature of the claims. More specifically, contrary to the assertions of the Examiner, the reference, fails to teach "determining a virtual physical representation to be output in response to the execution of the data management function" (claim 1); displaying a virtual representation of the sensed contextual characteristic of the device" (claim 10); Presenting a virtual representation of a physical principle on a user interface of the device claim 11); and virtual physical representation control module coupled to the microprocessor and presenting a virtual physical representation to the user interface in response to a signal from the context sensor (claim 12).

In attempting to suggest, that the same is known by the cited reference, the Examiner alleges that Nykanen et al., '778, teaches a virtual physical representation to be output in response to the execution of the data management function (Claim 1); displaying a virtual representation of the sensed contextual characteristic of the device" (claim 10); presenting a virtual representation of a physical principle on a user interface of the device (claim 11); and a virtual physical representation control module coupled to the microprocessor and presenting a virtual physical representation to the user interface in response to a signal from the context

sensor (claim 12).

However, contrary to the Examiner's assertions, Nykanen et al., '778 fails to describe or suggest determining a virtual physical representation to be output in response to the execution of the data management function. Nykanen et al., '778 discloses providing useful information to the user in response to the current context result. (abstract). Nykanen et al., '778 also discloses further that the useful and appropriate information is for an example, to signal an alarm and to provide suggestions for medication. [0117] This is not the same as determining a virtual physical representation to be output in response to the execution of the data management function as recited in independent claim 1. The virtual physical representation associated with the context is supported for example in the specification of the current application beginning at page 8 line 14, "a virtual physical representation of a glass pouring liquid." As it is described, "Virtual physical feedback is a presentation of information that generally illustrates common physical properties which are generally understood. The virtual physical representation is information which a user can easily relate to as following basic physical science principles and are commonly understood by the user." (Page 3, lines 20-23) Further, the simulation of "virtual water pouring from the glass corresponds directly to the transferring of the content." Here, the virtual physical portion is the graphic of the water pouring on the device display which is easy to relate to as opposed to an alarm for example.

With regards to the portion of the reference specification corresponding to Fig. 2A and paragraphs [0116] and [0117]; there is no concurrent support of a virtual physical representation to be output in response to the execution of the data management function (claim 1); displaying a virtual representation of the sensed contextual characteristic of the device" (claim 10); presenting a virtual representation of a physical principle on a user interface of the device claim 11); and virtual physical representation control module coupled to the microprocessor and presenting a virtual physical representation to the user interface in response to a signal from the context sensor (claim 12). In fact the "recognition result" ([0117], lines 1-2), is used by the health maintenance application to process the result and signal an alarm and provide suggestions for

medications. This is simply not the same as the virtual physical representation of claim 1 and similar in claims 10, 11 and 12. In essence, the alarm and the suggestion for medications are not a representation of the recognized Health/Fatigue state ([0116, 0117]. In other words, the useful information is an alert and a solution and not a virtual physical representation of the recognition result. In essence, the reference teaches away from determining a virtual physical representation, and therefore fails to make known or obvious each and every feature of the claims.

Because the reference being relied upon fails to make known each and every feature of the claims (independent claims 1, 10, 11 and 12), the rejection falls short of meeting the minimal requirements for such a rejection. As such, the rejection should be withdrawn as being improper. The above noted distinctions is similarly applicable to claims 2-9, 13-16, which depend from independent claim 1 and 12.

The applicants would respectfully request that the Examiner's decision to finally reject the presently pending claims, and any objection of claims premised upon the rejection of claims 1, 10, 11 and 12 be overturned, and that the claims be permitted to proceed to allowance.

2. Whether claims 17 - 19 have been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Nykanen et al. (US Patent No. 6,714,778) in view of Steele et al. (US Patent No. 5,169,342).

The Examiner has rejected claims 17 - 19 under 35 U.S.C. 103(a) as being unpatentable over Nykanen et al. (US Patent No. 6,714,778) in view of Steele et al. (US Patent No. 5,169,342).. However contrary to the Examiner's assertions, the cited references being relied upon by the Examiner fail to make known or obvious each and every feature of the claims. More specifically, contrary to the assertions of the Examiner, the combinations of references, fails to teach or suggest a "virtual physical representation control module coupled to the

microprocessor and presenting a virtual physical representation to the user interface in response to a signal from the context sensor (Claim 12) and that the “virtual representation of a well known physical phenomenon is a graphical animation presented on the display” (claim 17).

In attempting to suggest that the same is known or obvious by the combination of cited references, the Examiner acknowledges that Nykanen et al., '778, minimally fails to teach or suggest that the “virtual representation of a well known physical phenomenon is a graphical animation presented on the display. However, contrary to the Examiner’s assertions, Steele et al., '342, fails to account for the acknowledged deficiency. Additionally, Steele et al., '342, fails to teach a “virtual physical representation control module coupled to the microprocessor” and “presenting a virtual physical representation to the user interface in response to a signal from the context sensor.” In suggesting that Steele et al., '342, makes known or obvious the same, the Examiner refers to FIG. 13d-13g; col. 12, lines 9-31. The portion of the specification corresponding to col. 12, lines 9-31 relates to the copying of a “measuring cup” icon begin dragged from the access Window into the Phrase Window. However, this example fails to make known or obvious the corresponding claimed feature, where a virtual physical representation control module coupled to the microprocessor and presenting a virtual physical representation to the user interface in response to a signal from the context sensor (Claim 12) and that the “virtual representation of a well known physical phenomenon is a graphical animation presented on the display (claim 17).

Further, the Examiner fails to provide a convincing line or reasoning for combining the references. Nykanen et al., '778 is directed towards context sensitive web service methods that enables a mobile device to use context inference techniques to sense a users environment and in response thereto, provide useful information. Steele et al., '342 on the other hand is directed towards, An interactive method of communicating with a language deficient user.

Because the combination of references being relied upon fail to make known each and every feature of the claims, either alone, or taken together in any combination thereof, the

rejection falls short of meeting the minimal requirements for such a rejection. As such, the rejection should be withdrawn as being improper. The above noted distinctions are similarly applicable to claim 18 and 19, which depend from claim 17.

The applicants would respectfully request that the Examiner's decision to finally reject the presently pending claims, and any objection of claims premised upon the rejection of claims 17 - 19 be overturned, and that the claims be permitted to proceed to allowance.

Respectfully submitted,

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## VIII. APPENDIX OF CLAIMS

The following is the text of the claims involved in this appeal:

1. A method of representing content management in an electronic device having a context sensor:  
receiving signals from a context sensor;  
determining a contextual characteristic of the device based on the received context sensor signals;  
associating the determined contextual characteristic with a data management function of the device; and  
determining a virtual physical representation to be output in response to the execution of the data management function.
2. The method of claim 1, further comprising the step of relating the virtual physical representation to the sensed contextual characteristic.
3. The method of claim 1, further comprising the step of relating the virtual physical representation to the data management function.
4. The method of claim 1, further comprising the step of presenting the virtual physical representation by a user interface of the device.
5. The method of claim 4, further comprising the step of controlling the data management function of the device in response to the context sensor signal.

6. The method of claim 5, further comprising the step of executing a first data management function of the device in response to receiving the context sensor signal and the device operating in a first mode, and  
executing a second data management function of the device in response to receiving the context sensor signal and the device operating in a second mode.
7. The method of claim 4, further comprising the step of proportionally executing the data management function of the device in response to the context sensor signal, and wherein the virtual physical representation is presented proportionally to the execution of the data management function.
8. The method of claim 1, wherein the context sensor is at least one of a capacitive touch sensor, a motion sensor, a temperature sensor, a light sensor, a proximity sensor, an infrared sensor, a camera, or a microphone.
9. The method of claim 8, wherein the touch sensor is a plurality of touch sensors carried on a housing of the device.
10. A method of content management in an electronic device comprising:  
selecting data to be transferred, wherein said data is stored in a first device;  
sensing a contextual characteristic of the first device;  
establishing a connection between the first device and a second device;  
transferring the selected data to the second device; and  
displaying a virtual representation of the sensed contextual characteristic of the device.
11. A method of executing a command resulting from a sensed gesture in a handheld communication device comprising:

activating a first operation mode of the handheld device;  
receiving input signals from a gesture sensor corresponding to a predetermined gesture of the handheld device;  
executing an algorithm in said portable communication device in response to said command or said sensor measurement meeting a first criteria; and  
presenting a virtual representation of a physical principle on a user interface of the device.

12. An electronic device comprising:

a housing;

a microprocessor carried in the housing;

a user interface coupled to the microprocessor and carried on the housing;

a context characteristic sensor electrically coupled to the microprocessor; and

a virtual physical representation control module coupled to the microprocessor and presenting a virtual physical representation to the user interface in response to a signal from the context sensor.

13. The device of claim 12, wherein the device context characteristic sensor selectively provides an input signal to the microprocessor in response to activation of a predetermined contextual characteristic.

14. The device of claim 13, wherein the context sensor is a capacitive touch sensor, a motion sensor, a temperature sensor, a light sensor, a proximity sensor, an infrared sensor, a camera, or a microphone.

15. The device of claim 13, wherein the virtual physical representation control module generates a virtual representation of a well known physical phenomenon that is associated with a context sensed by the context sensor and

wherein the virtual physical representation control module sends the virtual representation to the user interface.

16. The device of claim 15, wherein the user interface is a display.
17. The device of claim 16, wherein the virtual representation of a well known physical phenomenon is a graphical animation presented on the display.
18. The device of claim 17, wherein the graphical animation presented on the display is a virtual representation of liquid in a container.
19. The device of claim 18, wherein the virtual representation of a liquid in a container is an animation of the liquid emptying from the container in response to the context sensor sensing a pouring gesture made with the device.
20. The device of claim 12, the virtual physical representation control module is a gesture translation module coupled to the microprocessor and receiving input from the device context characteristic sensor, the virtual physical representation control module converting motion of the device into control commands to operate the device.
21. The device of claim 12, wherein the user interface is a display, a speaker, a vibrator, a microphone, a keypad, a joystick, a camera, a scanner or any combination thereof.

## IX EVIDENCE APPENDIX

None

**X      RELATED PROCEEDINGS APPENDIX**

None